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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,670	09/18/2001	Kevin Collins	10006717	1243
7590 07/25/2008 HEWLETT-PACKARD COMPANY Intellectual Property Administration P.O. Box 272400 Fort Collins, CO 80527-2400			EXAMINER HAVAN, THU THAO	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 07/25/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/955,670

**Applicant(s)**

COLLINS, KEVIN

**Examiner**

THU-THAO HAVAN

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **Detailed Action**

#### ***Response to Amendment***

Claims 1-17 are pending. This action is in response to the remarks received on April 23, 2008.

#### ***Response to Arguments***

The rejection of claims 1-17 under 35 U.S.C. 103(a) as being unpatentable over Ebbs et al. (Provisional application no. 60/248,251) and Vega (US 2002/0120554) is maintained.

Applicant's arguments filed April 23, 2008 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., simulations of bidders to audit the secondary markets) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant alleges that the prior art made of record fails to teach simulated bids for the auction to audit the auction taking place on the auction site. The examiner disagrees with applicant's representative since Vega discloses simulated bids for the auction to audit the auction taking place on the auction site when his system runs

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simulation models according to bid information in an auditory auction manner (para. 0193, 0195, 0119, 0054, 0093, and 0188). In other words, Vega discloses the retaining engine predictive optimization solutions enable clients and service providers to achieve maximum value from each individual customer and/or service provider or combination of service providers. His system runs simulated marketing campaigns and predicts results before going into the field. In that, he discloses bid information includes a maximum bid that is supplied at a point in time to auction reaching a level corresponding to maximum bid.

With regards to the claims rejected as taught by Ebbs and Vega, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Ebbs and Vega taught the claimed limitations.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebbs et al. (Provisional application no. 60/248,251) in view of Vega (US 2002/0120554).

Re claim **10**, Ebbs teaches system for auditing an electronically based auction, which is located on an auction site (para. 0040, 0043, and 0052), comprising:

(a) an auction management module, located on the auction site, wherein the auction management module hosts the auction for a seller (para. 0027-0028);

(b) a plurality of actual bidder inputs, associated with the auction management module, to allow actual bidders to place bids in the auction on the auction site (fig. 5);

(c) an auction auditing module, in communication with the auction management module, to audit an auction taking place on the auction site (para. 0040, 0038, and 0041);  
and

(d) ... controlled by the auction auditing module, to submit at least one bid to the auction (para. 0042 and 0029).

However, Ebbs does not explicitly teach simulated bidder data. On the other hand, Vega discloses simulated bidder data when his system runs simulated marketing data according to services in an auction (para. 0193, 0195, 0119, 0054, 0093, and 0188). He discloses the retaining engine predictive optimization solutions enable clients and service providers to achieve maximum value from each individual customer and/or service provider or combination of service providers. The retaining engine decision technologies help to predict, test, track and optimize strategic and tactical goals based on a complete, integrated view of revenue, risk and costs. Thus, it would have been obvious to one of ordinary skill in the art to simulate bidder data to run marketing data when applying information to audit according to a system in relation to auctions.

Re claim 2, Ebbs teaches auction auditing module audits the auction to verify that the auction functions in a manner consistent with represented procedures of the auction site (para. 0040-0041).

Re claim **3**, Vega teaches a data verification component to verify that data submitted to the auction is represented accurately in the auction (para. 0148, 0146, and 0188).

Re claims **4** and **15**, Vega teaches a data verification component to verify that a correct winning bidder was selected (para. 048, 0142, 0148, and 0004).

Re claim **5**, Vega teaches simulated bidder data, wherein the simulated bidder data is removed in the background from the auction management module in the event that the simulated bidder data wins the auction and a next best bidder is selected and reported to a seller (para. 0148, 0148, 0094, 0175, and 0181; fig. 1).

Re claim **6**, Ebbs teaches a plurality of actual bidder inputs, which enable submission of bids to the auction through the auction management module (fig. 2).

Re claim **7**, Ebbs teaches an audit server to host the auction auditing module, wherein the auction auditing module is in networked communication with the auction management module (para. 0024-0026).

Re claim **8**, Ebbs teaches an auction server that hosts the auction management module (para. 0047 and 0050; fig. 1).

Re claim **9**, Ebbs teaches auction auditing module is hosted on an auction server with the auction management module (para. 0024-0027).

Re claims **11** and **16-17**, Vega teaches a data verification component to verify that data submitted to the auction with the simulated bidder data is represented accurately and that a correct winning bidder is selected (para. 0146, 0148, and 0013).

Re claim **12**, Ebbs teaches a skill detection module located in the auction audit module that detects the possibility that a seller is using a skill who is making bids in the auction (para. 0038-0040).

Re claim **13**, Vega teaches simulated bidder data includes at least one bid to verify that bids are represented accurately in the auction management module (para. 0148 and 0004).

Re claims **1** and **14**, Ebbs and Vega teach a system as claimed in claim 10. Therefore the rationale applied in the rejection of claim 10 applies herein.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday from 6am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Thu Thao Havan/  
Primary Examiner  
Art Unit 3693  
7/7/08



**Application Number**

Application/Control No.

09/955,670

Examiner

THU-THAO HAVAN

Applicant(s)/Patent under  
Reexamination

COLLINS, KEVIN

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